IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3263 OF 2006

In

APPEAL (L) NO.753 OF 2006

In

SUMMONS FOR JUDGEMENT NO.155 OF 2005

In

SUMMARY SUIT NO.1608 OF 2004

M/s.Gujarat Themis Biosyn Limited : Appellants
(Orig.Plaintiffs)

V/s.

M/s.Aristo Pharmaceuticals Ltd. : Respondents
(Orig.Defendants)

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Mr.Bipin Shukla i/b. M/s.SRS Legal for the appellants.

Mr.Paritosh Jaiswal i/b. M/s.Kanga & Co., for the respondents.

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CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATE : DECEMBER 13, 2006.

P.C.

We heard the counsel for the parties.

2. The appeal suffers from delay of 29 days.

3. In the affidavit-in-support of the Notice of Motion, it is stated that the appellants have their office at Vapi and the previous representative of the appellants, Mr.Jayesh M. Tolia had left the company. Thereafter, due to poor financial position, none of the other officers could be appointed for taking care of the litigation work. Though the affidavit-in-support of the Notice of Motion is not very satisfactory, the counsel for the respondents left the matter to the Court and stated that on payment of cost, the delay in filing the appeal may be condoned by us.

4. Taking an overall view of the facts and circumstances of the case, we condone the delay in filing the appeal, subject to payment of cost of Rs.5,000/- to the respondents within 15 days from today.

5. The appeal shall be processed thereafter and posted for admission.

6. Notice of Motion stands disposed of.

R.M. LODHA, J.

S.A. BOBDE, J.